

JULY 13, 2020

ORDINANCE NO. PZ-20-05

**AN ORDINANCE ADOPTED BY THE BOARD OF COMMISSIONERS
OF THE TOWN OF FUQUAY-VARINA, NC
AMENDING THE TOWN CODE OF ORDINANCES
PART 9, LAND DEVELOPMENT ORDINANCE
CROSS-ACCESS EASEMENTS**

CTA-2019-06

NOW, THEREFORE, BE IT ORDAINED, by the Board of Commissioners of the Town of Fuquay-Varina the following:

Section 1. Article M THOROUGHFARES, DRAINAGE & UTILITY STANDARDS is amended as follows:

§9-1606 EASEMENTS, f. Cross-Access Easement,

- (1) **Purpose and Intent.** The intent of this section is to supplement the requirements of the Community Transportation Plan (CTP) and street design standards of the Town in order to promote a highly connected transportation system by providing cross-access between adjoining properties. Cross-access is intended to increase connectivity, reduce vehicle miles of travel and travel times, reduce emergency response times, increase effectiveness of municipal service delivery and to free up arterial capacity to better serve travel needs.
- (2) **Consistency with Town's Plans and Ordinances.** The design of vehicular, bicycle and pedestrian circulation systems shall adhere to applicable provisions of the adopted plans and ordinances of the Town and other provisions of the LDO, in addition to meeting the requirements of this section.
- (3) **Cross-Access.**
 - A. All development shall be designed to allow for both vehicular and pedestrian cross-access to adjacent properties to encourage shared access points on public streets. Cross-access shall be installed to the shared property line of an adjoining property. In the event a temporary construction easement or similar easement is required for the cross-access to be constructed to the shared property line and the adjoining owner is unwilling to enter into such an easement, then the cross-access shall be constructed to a point as close as feasible to the property line and the unwilling property owner shall be responsible for completing the cross-access when their property is developed. See §9-1655 Shared & Cross-Access Requirements.
 - B. The requirement for cross-access to an adjacent property line may be considered for exemption if the Planning Director and the Engineering Director deem a connection not feasible due to:
 - i. Topographical constraints;
 - ii. Environmental constraints, including without limitation the presence of stream buffers or other natural features;

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- iii. Public safety;
 - iv. Sufficient cross-access already exists on or to the subject property;
 - v. The principal use of the subject property is incompatible with an existing use or use classification of an adjoining property. For purposes of evaluating incompatibility, the following shall apply:
 - 1. Existing property classified as a residential use as defined by the 2035 Community Vision Land Use Plan Place Type Categories section shall be deemed incompatible with property classified as Heavy Industrial or Light Industrial by the Town's Land Use Plan.
 - 2. Existing property classified as Civic & Institutional by the Town's Land Use Plan shall be deemed incompatible with property classified as Heavy Industrial or Light Industrial by the Town's Land Use Plan.
 - 3. Existing or proposed industrial-uses as defined by the Land Development Ordinance shall be deemed incompatible with all other uses, except Heavy Industrial or Light Industrial.
 - C. A cross-access easement must be shown on the final plat of the property involving a subdivision or recombination plat. An exempt plat providing a cross-access easement shall be submitted and approved by the Town prior to plan approval.
 - D. Nothing contained in this Section shall exempt a development from making CTP improvements or improvements otherwise required by the Land Development Ordinance and Spec Book.
 - E. Nothing contained in this Section shall exempt a development from dedicating public utility easements, pedestrian easements, riparian buffers, or storm drainage easements as required by the Land Development Ordinance and Spec Book.
- (4) **Construction of the Cross-Access.** Standards regarding the construction in the cross-access easement described herein shall be permitted in accordance with §9-1655 Shared & Cross-Access Requirements.
- (5) **Appeal of Planning Director and Engineering Director Determination.** Appeals of a determination of the Planning Director and Engineering Director under this Section shall be made in accordance with Article P Administrative Powers and Duties, §9-1753(i)(l).

**No text amendments are proposed for a. – e. of this section; hence, they are omitted from this document.*

§9-1655 SHARED & CROSS-ACCESS REQUIREMENTS,

Shared access between properties is a priority for the purpose of providing safe vehicle ingress and egress; minimizing the number access points the public right-of-way; and maximizing the cross-access between properties.

- a. **Types of Cross-Access.** Cross-access may be provided in the form of shared driveways, public street or private access between adjacent properties.

b. **Existing Conditions.** Cross-access shall be integrated into a proposed development plan. The following conditions shall be considered in determining the most compatible location to share cross-access.

- (1) Topographical constraints;
- (2) Environmental constraints, including without limitation, the presence of stream buffers or other natural features;
- (3) Sufficient cross-access already exists;
- (4) The principal use of the subject property is incompatible with an existing use or use classification of an adjoining property.

c. Private Cross-Access Standards

(1) **Cross-Access Easement.** The developer of the property under development plan review shall execute a cross-access easement by which perpetual acceptance of vehicular and/or pedestrian traffic is provided. The cross-access easement shall be recorded as part of the development plan, prior to the development plan being approved.

(2) **Adjacent Property Cross-Access.** Where a property is proposed for development adjacent to an existing property with a constructed cross-access, the design of the proposed development plan shall provide for connection to such cross-access.

(3) **Cross Access Design.**

The following standards shall apply:

- A. The design of a development plan shall include the construction of a driveway within a cross-access easement to accommodate two-way traffic.
 - B. The driveway shall be constructed abutting the rear or side property line, as much as is feasible to, accommodate the cross-access to the adjacent properties.
 - C. Construction of the cross-access shall be as close to the property line as feasible. There shall be a maximum distance from the property line of 10 feet, where it has been demonstrated that a temporary construction easement cannot be acquired on the adjacent property. A temporary construction easement shall be provided on the subject property for future cross-access construction where construction is not proposed to the property line.
 - D. Where cross-access is provided to within 10 feet of the property line on adjacent property, development of the subject property shall include construction of and connection to such cross-access.
- (4) **Multiple Lots.** Where a development plan is designed with multiple lots, the plan shall include cross-access, and an easement between all approved lots.

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BE IT FURTHER ORDAINED, by the Board of Commissioners of the Town of Fuquay-Varina that this ordinance shall take effect immediately upon its adoption.

Adopted this the 13th day of July 2020 in Fuquay-Varina, North Carolina.

FUQUAY-VARINA, NORTH CAROLINA

John W. Byrne, Mayor

ATTEST:

Rose H. Rich, Town Clerk

(TOWN SEAL)

